REMARKS

Claims 1-8 and 10-18 presently appear in this case. Claims 5, 7, 8 and 11-18 have been withdrawn from consideration. No claims have been allowed. The official action of January 22, 2007, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention relates to a method for enhancing functional neuronal recovery by the administration of poly-Glu,Tyr. The individual to whom the poly-Glu,Tyr is administered is one suffering from secondary neurodegeneration caused by the neurodegenerative effects of an injury, disease, disorder or condition that has caused primary neuronal damage in the CNS or PNS of that individual, or in an individual having neurodegeneration caused or exacerbated by glutamate toxicity, or in an individual having a psychosis or psychiatric disorder.

The restriction requirement of record has been reconsidered but has not been withdrawn in light of applicant's previous arguments. The examiner states that the claims still read on multiple inventions and require different searches, which are not coextensive with one another. The examiner states that the claims contain several diseases and conditions that are not reasonably linked by a common mechanism. It is respectfully requested that the examiner

again review and reconsider the restriction requirement in view of the present amendment to claims.

Claim 1 has now been amended to be directed to a single function, i.e., enhancing functional neuronal recovery. While the claim specifies that the individual to whom the poly-Glu,Tyr is administered can be suffering from any of a number of different conditions, all of the recited conditions have in common that a symptom of the condition is a neuronal dysfunction. Using the term "functional neuronal recovery" makes clear that the present invention is not directed to the treatment of any disease, but only in the amelioration of a symptom. The claim does not suggest that the administration of poly-Glu,Tyr will necessarily result in complete recovery from any of the conditions specified. The claim only requires enhancement of functional neuronal recovery in such individuals. Accordingly, this is truly a single generic invention and claim 1 is in the nature of a linking claim with respect to all of the conditions in which amelioration of this symptom is desirable.

The present claims do not state or require restoration of life to dead neurons. The term "regeneration" no longer appears in any of the claims. The only thing that is being regenerated by means of the present invention is neuronal function in living but nonfunctional or dysfunctional

nerve cells, i.e., nerves cells that have had their function modified or lost due to injury, etc. For example, when an axon is cut, the neuron does not necessarily die. The axon can be made to regenerate from that living neuron. In this regard, note the retinal experiments in the present specification.

The concept of enhancing functional neuronal recovery is supported in the present specification, for example at page 21, line 12, and page 44, line 11. All of claims 21-72 have now been deleted, thus leaving only claim 1 and those claims dependent therefrom in the present case. As claim 1 is a generic or linking claim, reconsideration and withdrawal of the restriction requirement is again respectfully urged.

The examiner states that a complete reply to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144), citing MPEP 821.01. This requirement is respectfully traversed.

37 CFR 1.144 explicitly states that a petition from the requirement for restriction may be deferred until the date of filing of a notice of appeal. Thus, the non-elected claims must be permitted to remain in the case as long as applicant still has the option to file a petition under 37 CFR 1.144. Furthermore, the present amendment to the claims and argument

may convince the examiner to withdrawal the restriction requirement or the finality of the rejection may be withdrawn prior to appeal, for example if applicant files an RCE. Reconsideration and withdrawal of this requirement is therefore respectfully urged.

Claims 4, 23 and 42 have been objected to because they recite non-elected subject matter.

As indicated above, applicant is entitled to have these claims remain in the case until such time as the examiner is convinced to withdraw the restriction requirement or a petition under 37 CFR 1.144 is filed. Accordingly, this objection should be held in abeyance until such time that a petition is filed and ruled on.

Claims 1-4, 6, 10, 21-23, 25, 26, 40-42 and 44-46 have been rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for reduction of the size of ischemic-induced neural damage and decreasing the amount of neuronal cell loss within the retina by administration of poly-Glu,Tyr, does not reasonably provide enablement for enhancing nerve regeneration or for the treatment of the full scope of diseases claimed or for protecting nerves from toxicity in all patients with any disease that is merely exacerbated by glutamate. This rejection is respectful traversed.

Claim 1 has now been amended in a manner such that it is believed that the present rejection has been obviated. It is now clear from the present language of claim 1 that the invention is not directed to the treatment of any disease. See the discussion above with respect to the restriction requirement. Furthermore, the claim does not state that it promotes nerve regeneration, nor does it cover use in all patients with any disease that is merely exacerbated by glutamate. Claim 1 is now directed to a method for enhancing functional neuronal recovery in an individual suffering from any of certain specifically enumerated conditions. The individual may be suffering from secondary neuronal degeneration cause by the neurodegenerative effects of an injury, disease, disorder or condition that has caused primary neuronal damage in the CNS or PNS of that individual. Alternatively, the individual may be one having neurodegeneration caused or exacerbated by glutamate toxicity. Note that the claim no longer speaks of an injury, disease or condition caused or exacerbated by glutamate toxicity, but specifies that it is neurodegeneration that is caused or exacerbated by glutamate toxicity. Functional neuronal recovery may be enhanced in such individuals. Finally, the individual may be one having a psychosis or psychiatric disorder. The amount of poly-Glu,Tyr administered is

effective to enhance functional neuronal recovery in that individual.

In view of the deletion of specific reference to promoting nerve regeneration, the examiner's comments in this regard are now moot. As the claims are not directed to the treatment of any disease, the examiner's comments about the treatment of all diseases not being reasonably encompassed by the claims is also moot. Finally, the examiner's comments that the claim is broad enough to read on the treatment of a number of different things alternatively is no longer applicable because the claim is directed only towards enhancing functional neuronal recovery. Accordingly, none of the examiner's reasons for this rejection are applicable to the presently amended claims. Reconsideration and withdrawal of this rejection is therefore respectfully urged.

Claim 1 has been rejected under 35 U.S.C. 102(b), as being anticipated by Vidovic. The examiner states that the claim still encompasses protecting nerves from glutamate toxicity and promoting nerve regeneration by administering poly-Glu,Tyr an amount effective to protect nerves from glutamate toxicity. This rejection is respectfully traversed.

Previously appearing claim 1 has now effectively been combined with claims 2, 10 and 16. The present rejection applied only to claim 1 and was not applicable to claims 2, 10

or 16. Accordingly, the present new claim 1 cannot be considered to be anticipated by Vidovic. Furthermore, the present claim clearly does not encompass prevention or protection. It is directed to enhancing functional neuronal recovery in an individual who must currently be suffering from one of the specified conditions. Accordingly, this rejection has now been obviated. Reconsideration and withdrawal thereof is respectfully urged.

It is submitted that all of the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. 112. Reconsideration and allowance are therefore earnestly solicited.

Respectfully submitted,

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